

**PT 19-03**

**Tax Type: Property Tax**

**Tax Issue: Charitable Ownership/Use**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPRINGFIELD, ILLINOIS**

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**THE DEPARTMENT OF REVENUE  
OF THE STATE OF ILLINOIS**

v.

**THE MISSION HOUSE, INC.**

**Applicant**

Docket # 18-PT-017

Tax Year 2017

Dept. Docket # 17-15-8, 9

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**RECOMMENDATION FOR DISPOSITION**

Appearances: Robin Gill, Special Assistant Attorney General, for the Department of Revenue of the State of Illinois; E. Lee Waite II of Dilsaver, Nelson & Waite for The Mission House, Inc.

Synopsis:

The Mission House, Inc. (“applicant”) filed an application for a property tax exemption for the year 2017 for two parcels of property located in Coles County. The Coles County Board of Review recommended that each parcel receive a partial exemption. The Department of Revenue (“Department”) disagreed with the Board’s decision and determined that neither parcel is entitled to an exemption. The applicant timely protested the Department’s decision to deny the exemptions, and an evidentiary hearing was held. The applicant alleges that it is entitled to either a religious or charitable purposes property tax exemption pursuant to sections 15-40 and 15-65 of the

Property Tax Code (35 ILCS 200/1-1 *et seq.*) on the basis that the property is either (1) used exclusively for religious purposes and not used with a view to profit or (2) it is owned by a charitable organization, used exclusively for charitable purposes, and not used with a view to profit. After reviewing the record, it is recommended that this matter be resolved in favor of the Department.

FINDINGS OF FACT:

1. The applicant is an Illinois not-for-profit corporation that was organized on March 29, 2013. (App. Ex. #1, p. 1)
2. The applicant's articles of incorporation indicate that the applicant's purpose is as follows:

Charitable. Benevolent. Educational. Religious. Any purpose permitted to be exempt from taxation under Section 501(c) or 501(d) of the United States Internal Revenue Code, as now in or hereafter amended. Any purpose that would qualify for tax-deductible gifts under the Section 170(c) of the United States Internal Revenue Code, as now or hereafter amended. (App. Ex. #1, pp. 2-3)

3. According to the applicant's bylaws, the applicant's mission is as follows:

The mission of The Mission House is to facilitate Christian discipleship training with men and women of all churches, to work directly with young men and women with life-destructive issues, to teach them Christian principles, in efforts to help them overcome. (App. Ex. #1, p. 5)

4. There are two parcels of property at issue in this case. The first parcel is located at 2319/2321 Prairie Avenue in Mattoon. The applicant began using the property in 2011 but acquired ownership in April 2017. The property was donated to the applicant and was a former duplex that was remodeled to a single family home

- with 6 bedrooms upstairs and a bedroom on the first floor. (App. Ex. #3; Dept. Ex. #1, pp. 15, 19; Tr. pp. 14-17)
5. The home located at 2319/2321 Prairie Avenue is currently being used as a faith-based recovery home for men. The purpose of the home is “to assist participants in rehabilitation from substance abuse and/or bad directional choices.” The home does not have a religious sanctuary in it. (Dept. Ex. #1, pp. 15, 17; Tr. p. 55)
  6. The second parcel of property at issue is located at 7710 West Country Club Road in Mattoon. The applicant acquired this property in March 2017. This property has a 4 bedroom residential home that is in the process of being renovated. (App. Ex. #4; Dept. Ex. #1, p. 8; Tr. pp. 50-51)
  7. Once the renovations are completed at 7710 West Country Club Road, the applicant intends to use the property as a faith-based recovery home for women. (Dept. Ex. #1, pp. 13-14)
  8. A third parcel of property is used by the applicant as a wood shop where custom cabinets are built. This third parcel is not at issue in this case and is owned by Keith Summers, but the business of the wood shop is operated by the applicant. The applicant’s executive director gave the wood shop business to the applicant to help support the applicant. (Tr. pp. 13, 35, 42-43)
  9. The applicant is registered as a business with the Department in order to operate the wood shop. Some of the cabinet sales are for resale. For other sales that are directly to the consumers, the applicant pays the retailers’ occupation tax to the Department. (App. Brief pp. 10-11; Tr. pp. 70-71)

10. In addition to operating the wood shop, the applicant has a lawncare and janitorial services business. (Tr. pp. 13, 46-47)
11. The applicant's executive director is one of the residents of the home at 2319/2321 Prairie Avenue, and he supervises the other residents. There are currently 4 residents other than the supervisor. (Tr. pp. 17-18, 37)
12. Three of the current residents are employed outside of The Mission House. The fourth one has been working for the applicant on its janitorial staff and running errands for the wood shop. (Tr. p. 29)
13. The other employees of the wood shop are local residents who assist in building the cabinets. (Tr. pp. 44-45)
14. In order to sell the custom cabinets, the applicant works with dealers in Chicago, Peoria, and St. Louis. (Tr. pp. 45-46)
15. The applicant's executive director has been doing cabinetry for 30 years. He does the drawings and talks to the clients. He chose to allow the business to be put under the applicant's 501(c)(3) so the applicant does not have to rely as much on public funding. (Tr. pp. 43-44, 47)
16. Some of the applicant's residents are from correctional institutions. Others are from rehabilitation facilities. The residents hear about the applicant's home through word of mouth, usually from a minister or counselor who works with incarcerated individuals or people in a rehabilitation program. (Dept. Ex. #1, pp. 14, 16; Tr. pp. 20-22, 51)
17. Since the applicant began operating on the property in 2011, approximately 200 men have lived in the home and gone through the applicant's program. (Tr. p. 19)

18. The applicant will consider taking in “someone off the streets” who is not coming directly from a correctional institution or rehabilitation program, but the applicant will consider the amount of their “clean time” to make sure that they can maintain their sobriety and not jeopardize other residents of the home. Some people will first admit themselves into a rehabilitation program where they are monitored 24 hours a day in order to increase their chances of staying sober. (Tr. pp. 23-25)
19. When a resident moves into The Mission House, the supervisor will focus on the resident’s “spiritual condition.” Although the primary concern is on the resident’s recovery, the applicant will first “[put] that aside for the time being until [the resident is] connected . . . rooted and grounded in with their spirituality.” (Tr. p. 20)
20. The applicant’s supervisor refers to the applicant’s program as a “behavioral modification program.” The residents must learn to behave, respect, and honor. They must learn how to present themselves and be in good standing with each other. They must learn how to communicate. (Tr. p. 20)
21. The Mission House rules and regulations, which are also referred to as a “Moral Code of Conduct,” are based on the teachings of Jesus Christ. The rules include, *inter alia*, no vulgar speech or conduct; be thankful in all circumstances; be humble, polite, courteous and respectful; be willing to work as a team; forgive one another; no drug or alcohol consumption or possession on or off the premises; no sexual immorality or sleepovers of the opposite sex; be home by 7:00 p.m. curfew 7 days a week (with exceptions for employment and Mission House activities); no chores, errands, or laundry on Sunday, which is a day of rest; and

- pay rent of \$100 per week, which includes all utilities and food. (App. Ex. #6, p. 1)
22. The residents usually eat out 4 times a week, and the \$100 rent covers those outings. (Tr. p. 36)
23. The applicant provides the residents with transportation to court appearances or to work and assists them with getting their driver's licenses reinstated. (Tr. pp. 19-20, 29-30)
24. Before a resident is allowed to stay at The Mission House, the applicant will interview the person either by phone or in person to determine whether he will be a good fit for The Mission House. (Dept. Ex. #1, p. 14; Tr. p. 51)
25. After the interview process, the resident must sign a Letter of Acceptance wherein he agrees to a 4 week probationary period. The resident will receive "membership status" once the probationary period is successfully completed. (App. Ex. #6, p. 3)
26. According to the Letter of Acceptance, the resident's length of stay "is determined by devotion and dedication to the vision of The Mission House ministry." (App. Ex. #6, p. 3)
27. Successfully completing the probationary period consists of completing the following:
- Enduring strict supervision concerning submission, motivation, and correction;
  - Showing a willingness to renovate mentally, and to enlarge mental capacity;
  - Capable of working as a team with other Mission House family members;
  - Finding full time employment
- (App. Ex. #6, p. 3)

28. If a resident cannot find full time employment, the applicant will offer him a job at either the wood shop or with the lawncare and janitorial business. (Tr. pp. 29-30)

29. Maintaining “membership status” consists of the following:

- Showing progress concerning spirituality; Participation in meetings;
  - Continuing to show submission to The Mission House rules and regulations;
  - Maintaining full time employment
- (App. Ex. #6, p. 3)

30. The following 6 violations may result in an immediate eviction:

- Consuming alcohol or illegal drugs; refusing a drug test
  - Absence without permission (*e.g.*, staying out all night or leaving The Mission House premises after curfew)
  - Openly defying appointed authorities; displaying aggressive and violent behavior
  - Stealing from The Mission House or from fellow residents
  - Sexual immorality; entertaining inappropriate (toxic) relationships
  - Contempt of court; in violation of probation or parole requirements
- (App. Ex. #6, p. 2)

31. The following 7 violations may result in a warning; 3 warnings within 12 months may result in an eviction:

- Covering up information regarding one’s self or another that could jeopardize the recovery of other fellow members
  - Behavior that would mar the integrity of The Mission House
  - Walking out, a no show, or getting fired from employment when at fault
  - Out past curfew (without unity of members): Tardiness; failing to be prompt; MIA concerning activities
  - Lying; Being deceitful or reluctant concerning accountability
  - Failing to obey orders from leadership; failing to obey The Mission House rules and regulations
  - Causing divisions amongst The Mission House Family; to jeopardize the unity of the house
- (App. Ex. #6, p. 2)

32. The applicant has an Activity Schedule, which is mandatory for all residents. The activities are the following:

**Sunday:** Church, fellowship lunch, fellowship dinner, house meeting at 8:00 p.m.

**Monday:** Study to show yourself approved

**Tuesday:** Spiritually Awake Meeting<sup>1</sup>, fellowship dinner

**Wednesday:** Study to show yourself approved

**Thursday:** Spiritually Awake Meeting, fellowship dinner

**Friday:** Bowling, movie, etc., fellowship dinner

**Saturday:** Spiritually Awake Meeting, fellowship dinner, Night of Confession

(App. Ex. #6, p. 4)

33. On Sundays when the members go to church, they usually go to 3 or 4 different denominations a month. The applicant emphasizes going to church as a group even if one person would like to go to a different denomination. (Tr. p. 25)

34. According to the applicant's audited financial statement for the year ending March 31, 2017, the Statement of Cash Receipts and Disbursements and Changes in Net Assets shows the following as Revenue:

Direct public support	XXXXXX
Program service revenue	XXXXXXX
Woodshop income	XXXXXX
Other income	XXXXXX

Total revenue XXXXXXX (App. Ex. #7, p. 6)

35. The Direct Public Support of \$XXXXXX is donations from individuals and businesses. The Program Service Revenue of \$XXXXXXX consists of \$XXXXXX that is rent from the residents of the house, and \$XXXXXXX that is income from the lawncare and janitorial services. The Woodshop income of \$XXXXXX is strictly income from the wood shop, and the Other income of \$XXXXXX is loan

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<sup>1</sup> This is a program that helps the residents understand spirituality and what happens when an individual is awakened to it from the "dark path." (Tr. p. 27)



- proceeds to purchase the property at 7710 West Country Club Road. (Dept. Ex. #1, p. 18; Tr. pp. 66-68)
36. According to the applicant's audited financial statement for the year ending March 31, 2017, the Statement of Cash Receipts and Disbursements and Changes in Net Assets shows total disbursements as \$XXXXXX. The increase in net assets for the year ending March 31, 2017 was \$XXXXXX. (App. Ex. #7, p. 6)
37. The income and expenses for all of the applicant's operations (*i.e.*, the wood shop, the lawncare and janitorial services, and the two homes) are included on the one Statement of Cash Receipts and Disbursements and Changes in Net Assets. (App. Ex. #7, p. 6; Tr. pp. 76-77)
38. The applicant does not have capital, capital stock, or shareholders. (App. Ex. #1, pp. 1-3)
39. The applicant is exempt from federal income taxes under section 501(c)(3) of the Internal Revenue Code. (App. Ex. #2, pp. 3-4)
40. On May 15, 2015, the Department issued an exemption identification number to the applicant for retailers' occupation taxes and use taxes. (App. Ex. #2, p. 1)

#### CONCLUSIONS OF LAW:

It is well-established under Illinois law that taxation is the rule, and tax exemption is the exception. Eden Retirement Center, Inc. v. Department of Revenue, 213 Ill. 2d 273, 285 (2004). "[A]ll property is subject to taxation, unless exempt by statute, in conformity with the constitutional provisions relating thereto." *Id.* Statutes granting tax exemptions must be strictly construed in favor of taxation. *Id.* at 288; Chicago Patrolmen's Association v. Department of Revenue, 171 Ill. 2d 263, 271 (1996); People

ex rel. County Collector v. Hopedale Medical Foundation, 46 Ill. 2d 450, 462 (1970). All facts are to be construed and all debatable questions resolved in favor of taxation. Eden Retirement Center, Inc., at 289. Every presumption is against the intention of the State to exempt the property from taxation. Oasis, Midwest Center for Human Potential v. Rosewell, 55 Ill. App. 3d 851, 856 (1<sup>st</sup> Dist. 1977). Whenever doubt arises, it must be resolved in favor of requiring the tax to be paid. Quad Cities Open, Inc. v. City of Silvis, 208 Ill. 2d 498, 508 (2004).

The burden of proof is on the party who seeks to qualify its property for an exemption. Eden Retirement Center, Inc., *supra*; Chicago Patrolmen's Association, *supra*. "The burden is a very heavy one." Provena Covenant Medical Center v. Department of Revenue, ("Provena I") 236 Ill. 2d 368, 388 (2010); Oasis, Midwest Center for Human Potential, *supra*. The party claiming the exemption bears the burden of proving by clear and convincing evidence that the property in question falls within both the constitutional authorization and the terms of the statute under which the exemption is claimed. Eden Retirement Center, Inc., *supra*; Board of Certified Safety Professionals of the Americas, Inc. v. Johnson, 112 Ill. 2d 542, 547 (1986) (citing Coyne Electrical School v. Paschen, 12 Ill. 2d 387, 390 (1957)).

### **Religious Exemption**

Authority to grant property tax exemptions emanates from article IX, section 6 of the Illinois Constitution of 1970. Section 6 authorizes the General Assembly to exempt certain property from taxes and provides, in part, as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and

for school, religious, cemetery and charitable purposes. Ill. Const. 1970, art. IX, §6.

Pursuant to this constitutional authority, the General Assembly enacted section 15-40 of the Property Tax Code, which allows exemptions for religious purposes and provides, in part, as follows:

(a) Property used exclusively for:

- (1) religious purposes, or
  - (2) school and religious purposes, or
  - (3) orphanages
- qualifies for exemption as long as it is not used with a view to profit.

35 ILCS 200/15-40(a).

The term “exclusively” refers to the primary purpose for which the property is used. McKenzie v. Johnson, 98 Ill. 2d 87, 98 (1983).

The Department argues that the property is not primarily used for religious purposes because the purpose of the dwellings on the property is to provide living spaces for the individuals and the executive director who reside there. One of the parcels, 7710 West Country Club Road, was not used at all during the year in question, but it will eventually be used as a residence. The Department states that for the remaining parcel at issue, although it is used for some limited religious purposes, this use does not amount to a primary use for religious purposes as required by law. The Department also argues that for the most part, the evidence does not include any documentation or pictures detailing any significant religious activity on the property.

The Department refers to two cases from the Fourth District Appellate Court to support its contentions. In Faith Builders Church, Inc. v. Department of Revenue, 378 Ill. App. 3d 1037 (4<sup>th</sup> Dist. 2008), the court first stated that the supreme court has found that

“as applied to the uses of property, a religious purpose means a use of such property by a religious society or body of persons as a stated place for public worship, Sunday schools, and religious instruction.” *Id.* at 1044, citing People ex rel. McCullough v. Deutsche Evangelisch Lutherische Jehovah Gemeinde Ungeaenderter Augsburgischer Confession, 249 Ill. 132, 136-137 (1911). The Faith Builders court found that a daycare and preschool that were operated by Faith Builders Church did not qualify for a religious purposes exemption because the property was used primarily as a daycare and the religious purposes of evangelism and theological instruction were secondary. In Fairview Haven v. Department of Revenue, 153 Ill. App. 3d 763, 773 (4<sup>th</sup> Dist. 1987), the court found that the operation of a retirement home allowed “members of the Apostolic Christian faith to carry out Christian service work, care for the elderly, and engage in evangelization,” but operating a retirement home is not necessary for these religious purposes, which can be accomplished through other means. *Id.* at 774. The court concluded that the property did not qualify for the religious purposes exemption. The Department notes that even though these cases concern a daycare and a nursing home, the reasoning in these cases is applicable to the instant case.

The applicant argues that although it does not have property devoted to either public worship or Sunday schools, religious instruction plays a vital role in the applicant’s activities. The applicant’s mission, as stated in its bylaws, is to facilitate Christian discipleship training and to teach the residents Christian principles to help them overcome their life-destructive issues. The applicant states that its primary purpose is to provide a faith-based residential program to assist those suffering from substance abuse problems. The applicant’s activity schedule requires residents to engage in individual

study “to show yourself approved,” and it requires “Spiritually Awake Meetings” throughout the week. The schedule also includes a “Night of Confession” and church on Sunday mornings. The applicant claims that these activities help the members maintain sobriety through their faith in God. In other words, the applicant claims that it uses religious instruction as a foundation for helping the members maintain sobriety. The applicant believes that the religious instruction is not merely tangential to the primary goals of providing day care or nursing home care as in the cases relied upon by the Department. Many members have been referred to the program by either law enforcement or correction facilities as either a continuation of or an alternative to halfway houses. The applicant claims that due to its religious nature, the applicant does not receive funding or grants from any governmental entity.

Notwithstanding the applicant’s arguments, the evidence does not support a finding that the property qualifies for a religious purposes exemption. It first must be noted that the property at 7710 West Country Club Road was in the process of being renovated during the year in question. In Weslin Properties v. Department of Revenue, 157 Ill. App. 3d 580 (2<sup>nd</sup> Dist. 1987), the court found that property may qualify for an exemption if the applicant shows that the property was in the process of being adapted and developed for an exempt use during the year at issue. Although the applicant has not shown what specific renovations took place during 2017, as the following discussion indicates, the property at 2319/2321 Prairie Avenue does not qualify for an exemption, and for the same reasons, the exemption for 7710 West Country Club Road must be denied as well.

The applicant has not met its burden of showing clearly and convincingly that the property at 2319/2321 Prairie Avenue is primarily used for religious purposes. This property is primarily used as a home for men who are recovering from some form of substance abuse or addiction. This is a use for which religious instruction is not a necessary component because there are many rehabilitation facilities that do not use religion as a basis for recovery. Although the applicant believes that a strong Christian faith and religious instruction is fundamental to the recovery of its residents, religious instruction is an integral part of the life of any deeply religious person. The following observation in Faith Builders, *supra*, is helpful:

In a sense, everything a deeply devout person does has a religious purpose. But if that formulation determined the exemption from property taxes, religious identity would effectively be the sole criterion. A church could open a restaurant, for instance, and because waiters attempted to evangelize customers while taking their orders, the restaurant would be exempt. But the operation of a restaurant is not necessary for evangelism and religious instruction, although, like any other social activity, it can provide the occasion for those religious purposes. Faith Builders, at 1046.

The operation of a rehabilitation program certainly provides the occasion for evangelism and religious instruction, but it is not necessary for those purposes. The property is primarily used as a home for recovering addicts, which is not a “religious purpose” within the commonly accepted meaning of that term.

### **Charitable Exemption**

Pursuant to article IX, section 6 of the Illinois Constitution of 1970, the General Assembly also enacted section 15-65 of the Property Tax Code, which allows exemptions for charitable purposes and provides, in relevant part, as follows:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

(a) Institutions of public charity.... 35 ILCS 200/15-65(a).

Property may be exempt under this subsection if it is (1) owned by an entity that is an institution of public charity; (2) actually and exclusively used for charitable purposes; and (3) not used with a view to profit. *Id.*; Chicago Patrolmen's Association, *supra*. Whether property is actually and exclusively used for charitable purposes depends on the primary use of the property. Methodist Old Peoples Home v. Korzen, 39 Ill. 2d 149, 156-57 (1968). Incidental acts of charity by an organization are not enough to establish that the use of the property is charitable. Morton Temple Association, Inc. v. Department of Revenue, 158 Ill. App. 3d 794, 796 (3<sup>rd</sup> Dist. 1987).

The Illinois Supreme Court set forth the constitutional standards for a charitable purposes exemption in Methodist Old Peoples Home, *supra*, and reiterated them in Eden Retirement Center, Inc., *supra*, and Provena I, *supra*. The following guidelines are characteristics of a charitable institution: (1) the organization has no capital, capital stock or shareholders; (2) the organization earns no profits or dividends but rather derives its funds mainly from public and private charity and holds them in trust for the objects and purposes expressed in its charter; (3) the organization dispenses charity to all who need and apply for it; (4) the organization does not provide gain or profit in a private sense to any person connected with it; (5) the organization does not appear to place any obstacles in the way of those who need and would avail themselves of the charitable benefits it dispenses; and (6) the primary purpose for which the property is used, and not any secondary or incidental purpose, must be charitable. Methodist Old Peoples Home, at 156-57. For purposes of applying these criteria, the court defined charity as “a gift to be applied ... for the benefit of an indefinite number of persons, persuading them to an

educational or religious conviction, for their general welfare--or in some way reducing the burdens of government.” *Id.* Having a charitable exemption from income taxes or from retailers’ occupation and use taxes is not determinative of whether an applicant is entitled to a charitable exemption from property taxes. See Hopedale Medical Foundation, at 464.

The Department argues that the applicant is not engaged in exclusively charitable activities. The Department concedes that the applicant has no capital, capital stock, or shareholders, and the organization did not provide gain or profit in a private sense to any person connected with it during 2017. Nevertheless, the Department argues that with respect to the second factor, only a small percentage of the applicant’s revenue is from public or private charity. Approximately 83% of the revenue is from rent or sales from its wood shop and custodial services. The Department contends that none of the applicant’s activities involve charitable giving.

The Department also contends that the third and fifth factors are not met because the applicant has a selection process for choosing residents, and the residents are required to work and participate in certain activities. The residents are also subject to eviction. The Department claims these are all barriers and obstacles in the way of those who need and would avail themselves of the applicant’s charitable benefits.

With respect to the final factor, the Department argues that the dwelling at 7710 West Country Club Road was not completed in 2017, and it was not used during 2017. The Department contends that even if there was evidence showing that the residence was being worked on during 2017, the record is unclear whether the ultimate use can be characterized as primarily charitable. The Department claims that the record



demonstrates that the occupied residence is not primarily dedicated to a charitable purpose. The Department believes that the evidence shows that the applicant is providing housing for minimal rent, and the residents are required to maintain employment in order to stay there. The residents are also subject to eviction under certain circumstances. According to the Department, this is not a primarily charitable activity.

The applicant argues that it meets the factors for the charitable exemption. The applicant believes that the third, fifth, and sixth factors can be joined together because the Department raises the same argument regarding each of them. The applicant admits that certain criteria must be met before a person will be accepted into the residential program. The person must obviously be a recovering addict. In addition, the person must be willing to put the work into the program to maintain his or her sobriety. The applicant contends that an actual need for the charity is a hallmark of almost all charities, and the applicant only provides charity to those who need its services and can benefit the most from the charity.

According to the applicant, the ability to reject someone or terminate their participation does not make the applicant any less charitable. The applicant contends that homeless shelters, which are usually considered to be charitable, have rules for the protection of those who receive services from the shelter. If those rules are not obeyed, the person receiving charity may be rejected by or removed from the shelter. Although the applicant is certainly not a homeless shelter, the applicant contends that it is providing shelter for those participating in its residential program. At The Mission House, personal safety is an issue as well as the safety of one's sobriety. According to the applicant, a resident's improper actions could threaten not only his or her own sobriety but the

sobriety of all of those participating in the program. The Mission House must, therefore, have rules to protect its residents. Otherwise it would be impossible for it to fulfill its mission.

The applicant contends that the requirement that members pay \$100 per week is needed to offset the cost of meals provided to the members, but the payment of rent in and of itself is not important to the program. The applicant claims that the primary purpose of the rent requirement is to make sure that the members acquire and maintain employment because inactivity is a serious danger to substance abusers. The applicant believes that maintaining employment is a vital step to overcoming substance abuse and becoming a useful member of society. None of the violations that may result in an eviction is based on a failure to pay rent. This is because the rent itself is not important; the work that the member does to receive the money to pay the rent is important. The work is vital to the recovery process.

With respect to the income, the applicant argues that any profits from the wood shop and the lawncare and janitorial services are donated to the residential program. The applicant claims that this allows the applicant to fulfill its purposes without the uncertainty that is inherent in relying upon donations from the general public. The applicant argues that it is similar to the Salvation Army, which is exempt from paying property taxes. The Salvation Army uses its property as a thrift store to sell various goods and to operate after school programs for which it charges fees. Like the applicant, the Salvation Army uses the profits that it realizes from its business enterprises to support its charitable endeavors. Unlike the Salvation Army, however, the applicant is not seeking an exemption for the property that it uses for its business enterprises. The

applicant claims that it is only seeking an exemption for its property that it strictly uses for charitable and religious activities. The applicant believes that its activities are every bit as charitable and religious as the Salvation Army's activities.

The applicant's arguments concerning the Salvation Army are not relevant to the present case because not only must each case be decided on its own facts (Hopedale Medical Foundation, at 462), the Salvation Army's property is most likely exempt under a different subsection of section 15-65, which provides, in part, as follows:

Sec. 15-65. Charitable purposes. All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

- (a) Institutions of public charity.
- (b) Beneficent and charitable organizations incorporated in any state of the United States, including organizations whose owner, and no other person, uses the property exclusively for the distribution, sale, or resale of donated goods and related activities and uses all the income from those activities to support the charitable, religious or beneficent activities of the owner, whether or not such activities occur on the property. 35 ILCS 200/15-65(a), (b).

From the facts provided, the Salvation Army's property is most likely exempt under subsection (b), which does not apply in the present case.

The applicant is seeking an exemption under subsection (a) of section 15-65, which, as previously stated, allows property to be exempt if it is (1) owned by an entity that is an institution of public charity; (2) actually and exclusively used for charitable purposes; and (3) not used with a view to profit. 35 ILCS 200/15-65(a); Chicago Patrolmen's Association, *supra*. As the following discussion indicates, I believe that the applicant has presented sufficient evidence to show that the property located at 2319/2321 Prairie Avenue is primarily used for charitable purposes. Nevertheless,

despite the fact that in 2015 the Department issued an exemption identification number to the applicant for retailers' occupation taxes and use taxes, I believe that the ownership requirement has not been met. (See Rogy's New Generation, Inc. v. Department of Revenue, 318 Ill. App. 3d 765 (1<sup>st</sup> Dist. 2000) (Department may review the tax-exempt status of a corporation at any time)).

Courts have looked to the guidelines in Methodist Old Peoples Home, *supra*, to determine (1) whether the applicant is an institution of public charity and (2) whether the applicant uses the property primarily for charitable purposes. See Provena I, *supra*, Chicago Patrolmen's Association, *supra*. The problem in the instant case is that the applicant has not met most of the guidelines to show that the property is owned by a charitable institution. Although the applicant is a not-for-profit, this is not determinative of whether an applicant is an institution of public charity for purposes of a charitable property tax exemption. See Provena I, at 393 (evidence insufficient to conclude that not-for-profit Provena Hospitals was a charitable institution).

The applicant clearly does not meet the second guideline: its funds are not derived primarily from public and private charity. Of the applicant's total income of \$ XXXXXX, approximately 60% (\$ XXXXXX) was income from the wood shop, and approximately 20% (\$ XXXXXX) was income from the lawncare and janitorial services. Therefore, 80% of the applicant's income was derived from the revenue that it earned from the two businesses that it operates. Failing to meet this second guideline is not determinative of an organization's entitlement to a charitable tax exemption. See Provena Covenant Medical Center v. Department of Revenue, 384 Ill. App. 3d 734, 746 (4<sup>th</sup> Dist. 2008), *aff'd*, 236 Ill. 2d 368 (2010) ("Provena II"). Nevertheless, the guidelines

of dispensing charity to all who need and apply for it and placing no obstacles in their way “go to the heart of what it means to be a charitable institution.” Provena II, at 750.

Even though the wood shop is located on property that is not at issue in this case, all of the applicant’s operations must be considered when determining whether the applicant is a charitable institution. The applicant operates two separate businesses in addition to operating the home for recovering addicts. The income and expenses for all the operations, however, are not kept on separate financial statements; they are combined on one financial statement because all the businesses are operated within one corporation, The Mission House, Inc. The applicant’s accountant testified that, at the applicant’s request, she keeps separate financials for all the operations, but she combines them for purposes of the financial statements. (Tr. p. 77) The applicant has referred to the wood shop and the lawncare and janitorial services as “businesses” (Tr. pp. 32, 47), and the applicant has not indicated that they are in any way operated in a charitable manner. The applicant, therefore, does not meet the third and fifth factors in Methodist Old Peoples Home with respect to these businesses. In addition, although all the revenues from the businesses are reinvested back into The Mission House, Inc. (Tr. p. 49) and the businesses make it possible for the applicant to offer the residents employment, the fact that they are operated within one corporation prevents the applicant from being a charitable institution.

A hypothetical situation may make it clearer. If, for example, a for-profit corporation operated its business on one parcel of property and then operated a charitable activity on another parcel of property, the parcel with the charitable activity would not be exempt because the owner of the property is not a charitable institution. This problem

may be avoided if a separate not-for-profit charitable corporation owned the parcel with the charitable activity, and the for-profit corporation donated funds to the charitable corporation for the operation of the charitable activity. In the present case, the corporation that operates the charitable activity also operates two businesses for which there is no related charity. The applicant, therefore, cannot be considered to be a charitable institution.

Although the applicant has not established that it is a charitable institution, the evidence shows that the property at 2319/2321 Prairie Avenue is used primarily for charitable purposes. The applicant appears to provide charity to an indefinite number of people: it has provided rehabilitation services, as well as a place to live, to approximately 200 people since it began its operations in 2011. As the applicant has pointed out, the rules are necessary for the protection of the people who are receiving services. The resident is subject to eviction for violating rules that are needed for the success of the program. The failure to pay rent is not a basis for eviction, and the rent is required to make sure that the residents obtain employment. The employment is necessary to avoid inactivity, which may jeopardize the resident's recovery. The applicant will provide the resident with a job if he is unable to obtain one. The \$XXX rent per week, which is approximately \$XX.XX per day, is a nominal amount considering the fact that it covers all utilities and all food, including the food when the residents eat out at a restaurant. Although these facts support a finding that the property is used primarily for charitable purposes, because the applicant has failed to meet the ownership requirement, the exemption must be denied.

Recommendation:

For the foregoing reasons, it is recommended that the applicant's application for a property tax exemption for the year 2017 be denied.

Enter: October 8, 2019

Linda Olivero  
Administrative Law Judge